SUBCHAPTER O—SEWAGE SLUDGE

PART 501—STATE SLUDGE MANAGEMENT PROGRAM REGULATIONS

Subpart A—Purpose, Scope and General Program Requirements

Subpart B—Development and Submission of State Programs

Subpart C—Program Approval, Revision and Withdrawal

AUTHORITY: 33 U.S.C. 1251 *et seq.*

SOURCE: 54 FR 18786, May 2, 1989, unless otherwise noted.

Subpart A—Purpose, Scope and General Program Requirements

§ 501.1 Purpose and scope.

(a) These regulations are promulgated under the authority of sections 101(e), 405(f), 501(a), and 518(e) of the CWA, and implement the requirements of those sections.

(b) This part specifies the procedures EPA will follow in approving, revising, and withdrawing State sludge management programs under section 405(f), and the requirements State programs must meet to be approved by the Administrator under section 405(f) of CWA. Sludge Management Program submissions may be developed and implemented under any existing or new State authority or authorities as long as they meet the requirements of this part.

(c) Any complete State Sludge Management Program submitted for approval under this part shall have the following as a minimum:

(1) The authority to require compliance by any person who uses or disposes of sewage sludge with standards for sludge use or disposal issued under section 405(d) of the CWA, including compliance by federal facilities;

(2) The authority to issue permits that apply, and ensure compliance with, the applicable requirements of section 405 of the Clean Water Act to any POTW or other treatment works treating domestic sewage, and procedures for issuance of such permits;

(3) Provisions for regulating the use or disposal of sewage sludge by nonpermittees;

(4) The authority to take actions to protect public health and the environment from any adverse effects that may occur from toxic pollutants in sewage sludge; and

(5) The authority to abate violations of the State sludge program, including civil and criminal penalties and other ways and means of enforcement. Indian Tribes can satisfy criminal enforcement authority requirements under § 501.25.

(d) In addition, any complete State Sludge Management Program submitted for approval under this part must have authority to regulate all sewage sludge management activities subject to 40 CFR part 503, unless the State is applying for partial sludge program approval in accordance with

paragraph (m) of this section. The State sludge management program must include authority to regulate all Federal facilities in the State. Sludge management activities must include as applicable:

(1) Land application;

(2) Landfilling in a Municipal Solid Waste Landfill regulated under 40 CFR part 258;

(3) Incineration;

(4) Surface disposal; and

(5) Any other sludge use or disposal practices that may subsequently be regulated by 40 CFR part 503.

(e) The Administrator will approve State programs which conform to the applicable requirements of this part.

(f)(1) Upon approval of a State program, the Administrator will suspend the issuance of federal permits for those activities subject to the approved State program. After program approval EPA will retain jurisdiction over any permits (including general permits) which it has issued unless arrangements have been made with the State in the Memorandum of Agreement for the State to assume responsibility for these permits. Retention of jurisdiction will include the processing of any permit appeals, modification requests, or variance requests; the conduct of inspections, and the receipt and review of self-monitoring reports. If any permit appeal, modification request, or variance request is not finally resolved when the federally issued permit expires, EPA may, with the consent of the State, retain jurisdiction until the matter is resolved.

(2) The procedures outlined in the preceding paragraph (f)(1) of this section for the suspension of permitting authority and transfer of existing permits will also apply when EPA approves an Indian Tribe's application to operate a State sludge management program and a State was the authorized permitting authority under § 501.13 for sludge management activities within the scope of the newly approved program. The authorized State will retain jurisdiction over its existing permits as described in paragraph (f)(1) of this section absent a different arrangement stated in the Memorandum of Agreement executed between EPA and the Tribe.

(g) Notwithstanding approval of a State sludge program, EPA has the authority to take enforcement actions for any violations of this part or sections 405 or 309 of the CWA.

(h) Any State program approved by the Administrator shall at all times be conducted in accordance with the requirements of this part.

(i) Nothing in this part precludes a State or political subdivision thereof, or interstate agency, from adopting or enforcing requirements established by State or local law that are more stringent or more extensive than those required in this part or in any other federal statute or regulation.

(j) Nothing in this part precludes a State from operating a program with a greater scope of coverage than that required under this part. If an approved State program has greater scope of coverage than required by federal law, the additional coverage is not part of the federally approved program.

(k) Sections 106 (a) and (d) of the Marine Protection, Research, and Sanctuaries Act (MPRSA), 33 U.S.C. 1416, generally preclude States from regulating or issuing permits for ocean dumping. Nothing in this regulation is intended to confer on the States the authority to engage in the regulation or permitting of ocean dumping in contravention of the provisions of sections 106 (a) and (d) of the MPRSA.

(l) The Administrator may allow a State sewage sludge management agency to assign portions of its program responsibilities to local agencies, provided that:

(1) No assignment is made to a local agency which owns or operates a POTW or other facility that treats or disposes of sewage sludge;

(2) The program description required by § 501.12 of this part identifies any assignment of program responsibilities to the local agency(ies), describes the capabilities of the local agency to carry out assigned functions, and includes copies of any documents which execute the assignment and an agreement between the State sewage sludge management agency and the local agency(ies) defining their respective program responsibilities;

(3) The Attorney General's Statement required by § 501.13 of this part

states that any assignment of program responsibilities to the local agency(ies) described in the program description is valid under State law and that State and local law do not otherwise prohibit the local agency(ies) from executing the program responsibilities assigned by the State sewage sludge management agency;

(4) The Memorandum of Agreement (MOA) required by § 501.14 of this part includes adequate provisions for the State sewage sludge management agency's oversight of the program responsibilities assigned to the local agency(ies);

(5) The State sewage sludge management agency retains all responsibility for the program reporting required by § 501.21 of this part and for all other activities required by this part or by the MOA related to EPA oversight of the State's approved program; and

(6) The State sewage sludge management agency retains full authority and ultimate responsibility for administering all aspects of the State's approved program in accordance with the requirements of this part and the MOA.

(m) A State whose sludge management program has not been approved under this part may submit to the Regional Administrator an application for approval of a partial sewage sludge program. The following are the requirements for approval of a partial program:

(1) A partial program submission must constitute a complete management program covering one or more categories of sewage sludge use or disposal. The program must also apply to anyone engaged in the sewage sludge use or disposal practice that is the subject of the partial program. A complete management program is one that provides for the issuance of permits, the monitoring of compliance and, in the event of violations, possible enforcement action.

(2) The partial program submission must also address the following requirements:

(i) The Attorney General's Statement, in addition to the information required by § 501.13, must clearly explain the jurisdiction of the administering agency or department;

(ii) The program description, in addition to the information required by § 501.12, must explain how the program will operate, including which use and disposal practice(s) the State will cover. The program description must also explain the relationship and coordination between the proposed partial sewage sludge program and that part of the program for which EPA will remain the permitting authority, including a discussion of the division of permitting, enforcement, and compliance monitoring responsibilities between the State and EPA; and

(iii) The Memorandum of Agreement between EPA and the State, in addition to the information required by § 501.14, must set out the responsibilities of EPA and the State in administering the partial program, including specific provisions for transfer of information and determination of which users or disposers of sewage sludge are included in the partial program.

[54 FR 18786, May 2, 1989, as amended at 58 FR 67983, Dec. 22, 1993; 63 FR 45123, Aug. 24, 1998]

§ 501.2 Definitions.

Administrator means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

Approved State program means a State program which has received EPA approval under this part.

Class I sludge management facility means any POTW identified under 40 CFR 403.8(a) as being required to have an approved pretreatment program (including such POTWs located in a State that has elected to assume local program responsibilities pursuant to 40 CFR 403.10(e)) and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the Regional Administrator in conjunction with the State Program Director because of the potential for its sludge use or disposal practices to adversely affect public health or the environment.

CWA means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92–500, as amended by Pub. L. 95–217, Pub. L. 95–576, Pub. L.

96–483, Pub. L. 97–117, and Pub. L. 100–4, 33 U.S.C. 1251 *et seq*.

Federal Indian reservation means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

Indian Tribe means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

Municipality means a city, town, borough, county, parish, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created under State law (or an Indian tribe or an authorized Indian tribal organization), or a designated and approved management agency under section 208 of the Clean Water Act. This definition includes a special district created under State law such as a water district, sewer district, sanitary district, utility district, drainage district, or similar entity, or an integrated waste management facility as defined in section 201(e) of the CWA, as amended, that has as one of its principal responsibilities the treatment, transport, or disposal of sewage sludge.

Permit means an authorization, license, or equivalent control document issued by EPA or an ''approved State program'' to implement the requirements of this part.

Person is an individual, association, partnership, corporation, municipality, State or Federal Agency, or an agent or employee thereof.

POTW means a publicly owned treatment works.

Publicly owned treatment works means a treatment works treating domestic sewage that is owned by a municipality or State.

Septage means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank, when the system is cleaned or maintained.

Sewage sludge means any solid, semisolid, or liquid residue removed during the treatment of municipal waste water or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary or advanced waste water treatment, scum, septage, portable toilet pumpings, Type III Marine Sanitation device pumpings (33 CFR part 159), and sewage sludge products. Sewage sludge does not include grit, screenings, or ash generated during the incineration of sewage sludge.

Standards for sewage sludge use or disposal means the regulations promulgated at 40 CFR part 503 pursuant to section 405(d) of the CWA which govern minimum requirements for sludge quality, management practices, and monitoring and reporting applicable to the generation or treatment of sewage sludge from a treatment works treating domestic sewage or use or disposal of that sewage sludge by any person.

State means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, and an Indian Tribe as defined in these regulations which meets the requirements of § 501.22.

State Program Director or *Director* means the chief executive officer of the State sewage sludge management agency.

State sewage sludge management agency means the agency designated by the Governor as having the lead responsibility for managing or coordinating the approved State program under this part.

Toxic pollutant means any pollutant listed as toxic under section 307(a)(1) or any pollutant identified in regulations implementing section 405(d) of the CWA.

Treatment works treating domestic sewage means a POTW or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including Federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, ''domestic sewage'' includes waste and waste water from humans or household operations that

are discharged to or otherwise enter a treatment works.

TWTDS means treatment works treating domestic sewage.

[54 FR 18786, May 2, 1989, as amended at 58 FR 67983, Dec. 22, 1993; 63 FR 45124, Aug. 24, 1998]

§ 501.3 Coordination with other programs.

Issuance of State permits under this part may be coordinated with issuance of RCRA, UIC, NPDES, 404 and other permits whether they are controlled by the State, EPA, or the Corps of Engineers. (See for example 40 CFR 124.4 for procedures for coordinating permit issuance.)

Subpart B—Development and Submission of State Programs

§ 501.11 Elements of a sludge management program submission.

(a) Any State that seeks to administer a program under this part shall submit to the Administrator at least three copies of a program submission. The submission shall contain the following:

(1) A letter from the Governor of the State (or in the case of an Indian Tribe in accordance with § 501.24(b), the Tribal authority exercising powers substantially similar to those of a State Governor) requesting program approval;

(2) A complete program description, as required by § 501.12 describing how the State intends to carry out its responsibilities under this part;

(3) An Attorney General's Statement as required by § 501.13;

(4) A Memorandum of Agreement with the Regional Administrator as required by § 501.14; and

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures.

(b)(1) Within 30 days of receipt of a State program submission, EPA will notify the State whether its submission is complete. If it is incomplete, EPA will identify the information needed to complete the program submission.

(2) In the case of an Indian Tribe eligible under § 501.24(b), EPA shall take into consideration the contents of the Tribe's request submitted under § 501.22, in determining if the program submission required by § 501.11(a) is complete.

(Information collection requirements in paragraph (a) were approved by the Office of Management and Budget under control number 2040–0128)

[54 FR 18786, May 2, 1989, as amended at 58 FR 67983, Dec. 22, 1993; 59 FR 64346, Dec. 14, 1994]

§ 501.12 Program description.

Any State that seeks to administer a program under this part shall submit a description of the program it proposes to administer in lieu of the federal program under State law or under any interstate compact. The program description shall include:

(a) A description in narrative form of the scope, structure, coverage and processes of the State program.

(b) A description (including organization charts) of the organization and structure of the State agency or agencies which will have responsibility for administering the program. If more than one agency is responsible for administration of a program, the responsibilities of each agency, and their procedures for coordination must be set forth, and an agency must be designated as a ''lead agency'' (i.e., the ''State sludge management agency'') to facilitate communications between EPA and the State agencies having program responsibility. If the State proposes to administer a program of greater scope of coverage than is required by federal law, the information provided under this paragraph must indicate the resources dedicated to administering the federally required portion of the program. This description must include:

(1) A description of the general duties and the total number of State agency staff carrying out the State program;

(2) An itemization of the estimated costs of establishing and administering the program for the first two years after approval including cost of the personnel described in paragraph (b)(1) of this section, cost of administrative support, and cost of technical support, except where a State is seeking authorization for an established sewage sludge management program that has

been in existence for a minimum of two years and is at least as stringent as the program for which the State is seeking authorization; and

(3) An estimate of the sources and amounts of funding for the first two years after approval to meet the costs listed in paragraph (b)(2) of this section, except where a State is seeking authorization for an established sewage sludge management program that has been in existence for a minimum of two years and is at least as stringent as the program for which the State is seeking authorization.

(c) A description of applicable State procedures, including permitting procedures, and any State administrative or judicial review procedures.

(d) Copies of the permit, application, and reporting forms or a description of the procedures the State intends to employ for obtaining information needed to implement its permitting program.

(e) A complete description of the State's compliance tracking and enforcement program (see 40 CFR 501.16 and 501.17).

(f)(1) An inventory of all POTWs and other TWTDS that are subject to regulations promulgated pursuant to 40 CFR part 503 and subject to the State program, which includes:

(i) Name, location, and ownership status (e.g., public, private, federal),

(ii) Sludge use or disposal practice(s),

(iii) Annual sludge production volume, and

(iv) Permit numbers for permits containing sewage sludge requirements, if any, and;

(v) Compliance status.

(2) States may submit either:

(i) Inventories which contain all of the information required by paragraph (f)(1) of this section; or

(ii) A partial inventory with a detailed plan showing how the State will complete the required inventory within five years after approval of its sludge management program under this part.

(g) In the case of Indian Tribes eligible under § 501.24(b), if a State has been authorized by EPA to issue permits on the Federal Indian reservation in accordance with § 501.13, a description of how responsibility for pending permit applications, existing permits, and supporting files will be transferred from the State to the eligible Indian Tribe. To the maximum extent practicable, this should include a Memorandum of Agreement negotiated between the State and the Indian Tribe addressing the arrangements for such transfer.

[54 FR 18786, May 2, 1989, as amended at 58 FR 67984, Dec. 22, 1993; 59 FR 64346, Dec. 14, 1994; 63 FR 45124, Aug. 24, 1998]

§ 501.13 Attorney General's statement.

Any State that seeks to administer a program under this part shall submit a statement from the State Attorney General (or the attorney for those State or interstate agencies which have independent legal counsel) that the laws of the State, or an interstate compact, provide adequate authority to carry out the program described under § 501.12 and to meet the requirements of this part. This statement shall include citations to the specific statutes, administrative regulations, and, where appropriate, judicial decisions which demonstrate adequate authority. State statutes and regulations cited by the State Attorney General or independent legal counsel shall be in the form of lawfully adopted State statutes and regulations at the time the statement is signed and shall be fully effective by the time the program is approved. To qualify as ''independent legal counsel'' the attorney signing the statement required by this section must have full authority to independently represent the State agency in court on all matters pertaining to the State program. If a State (which is not an Indian Tribe) seeks to carry out the program on Indian lands, the statement shall include an appropriate opinion and analysis of the State's legal authority.

[54 FR 18786, May 2, 1989, as amended at 58 FR 67984, Dec. 22, 1993]

§ 501.14 Memorandum of Agreement with the Regional Administrator.

(a) Any State that seeks to administer a program under this part must submit a Memorandum of Agreement. The Memorandum of Agreement must be executed by the State Program Director and the Regional Administrator and will become effective when approved by the Regional Administrator.

In addition to meeting the requirements of paragraph (b) of this section, the Memorandum of Agreement may include other terms, conditions, or agreements consistent with this part and relevant to the administration and enforcement of the State's regulatory program. The Administrator will not approve any Memorandum of Agreement which contains provisions which restrict EPA's exercise of its oversight responsibility.

(b) The Memorandum of Agreement shall include the following:

(1)(i) Provisions for the prompt transfer from EPA to the State of pending permit applications applicable to the State program (or portion of the State program for which the State seeks approval) and any other information relevant to program operation not already in the possession of the State Director (e.g., support files for permit issuance, compliance reports, etc.). If existing permits are transferred from EPA to the State for administration, the Memorandum of Agreement must contain provisions specifying a procedure for transferring the administration of these permits. If a State lacks the authority to directly administer permits issued by the federal government, a procedure may be established to transfer responsibility for these permits.

(ii) Where a State has been authorized by EPA to issue permits in accordance with § 501.13 on the Federal Indian reservation of the Indian Tribe seeking program approval, provisions describing how the transfer of pending permit applications, permits, and any other information relevant to the program operation not already in the possession of the Indian Tribe (support files for permit issuance, compliance reports, etc.) will be accomplished.

(2) Provisions specifying classes and categories of permit applications, draft permits, and proposed permits that the State will send to the Regional Administrator for review, comment and, where applicable, objection. These provisions must follow the permit review procedures set forth in 40 CFR 123.44.

(3) The Memorandum of Agreement must also specify the extent to which EPA will waive its right to review, object to, or comment upon State-issued permits.

(4) Whenever a waiver is granted under paragraph (3) of this section, the Memorandum of Agreement shall contain a statement that the Regional Administrator retains the right to terminate the waiver as to future permit actions, in whole or in part, at any time by sending the State Director written notice of termination.

(5) Provisions specifying the frequency and content of reports, documents and other information which the State is required to submit to EPA. The State shall allow EPA to routinely review State records, reports, and files relevant to the administration and enforcement of the approved program. State reports may be combined with grant reports where appropriate. The procedures shall implement the requirements of § 501.21.

(c) The Memorandum of Agreement must also provide for the following:

(1) The circumstances in which the State must promptly send notices, draft permits, final permits, or related documents to the Regional Administrator; and

(2) Provisions on the State's compliance monitoring and enforcement program, including:

(i) Provisions for coordination of compliance monitoring activities by the State and by EPA. These may specify the basis on which the Regional Administrator will select facilities or activities within the State for EPA inspection; and

(ii) Procedures to assure coordination of enforcement activities.

(3) When appropriate, provisions for joint processing of permits by the State and EPA for facilities or activities which require permits from both EPA and the State under different programs (see for example 40 CFR 124.4).

(4) Provisions for modification of the Memorandum of Agreement in accordance with this part.

(5) Provisions for modification of the Memorandum of Agreement in accordance with this part.

(d) The Memorandum of Agreement, the annual program grant and the State/EPA Agreement should be consistent. If the State/EPA Agreement indicates that a change is needed in the

Memorandum of Agreement, the Memorandum of Agreement may be amended through the procedures set forth in this part. The State/EPA Agreement may not override the Memorandum of Agreement.

(The information collection requirements in paragraph (c) of this section have been approved by the Office of Management and Budget under control number 2040–0128)

[54 FR 18786, May 2, 1989, as amended at 58 FR 67984, Dec. 22, 1993; 63 FR 45124, Aug. 24, 1998]

§ 501.15 Requirements for permitting.

(a) *General requirements.* All State programs under this part must have legal authority to implement each of the following provisions and must be administered in conformance with each, except that States are not precluded from omitting or modifying any provisions to impose more stringent requirements:

(1) *Confidentiality of information.* Claims of confidentiality will be denied for the following information:

(i) The name and address of any permit applicant or permittee;

(ii) Permit applications, permits, and sewage sludge data. This includes information submitted on the permit application forms themselves and any attachments used to supply information required by the forms.

(2) *Duration of permits.* (i) NPDES permits issued to treatment works treating domestic sewage pursuant to section 405(f) of the CWA will be effective for a fixed term not to exceed five years.

(ii) Non-NPDES Permits issued to treatment works treating domestic sewage pursuant to section 405(f) of the CWA will be effective for a fixed term not to exceed ten years.

(3) *Schedules of compliance.* (i) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the CWA and the requirements of this part. Any schedules of compliance under this section must require compliance as soon as possible, but not later than any applicable statutory deadline under the CWA.

(ii) *Interim dates.* If a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule must set forth interim requirements and the date for their achievement, as appropriate.

(iii) *Reporting.* The permit must be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee must notify the Director in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if paragraph (a)(3)(ii) of this section is applicable.

(b) *Conditions applicable to all permits.* In addition to permit conditions which must be developed on a case-by-case basis in order to meet applicable requirements of 40 CFR part 503, paragraphs (a)(1) through (a)(3) of this section, and permit conditions developed on a case-by-case basis using best professional judgment to protect public health and the environment from the adverse effects of toxic pollutants in sewage sludge, all permits must contain the following permit conditions (or comparable conditions as provided for in the Memorandum of Agreement):

(1) *Duty to comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(2) *Compliance with sludge standards.* The permittee shall comply with standards for sewage sludge use or disposal established under section 405(d) of the CWA (40 CFR part 503) within the time provided in the regulations that establish such standards, even if this permit has not yet been modified to incorporate the standards.

(3) *CWA penalties.* Section 309 of the Clean Water Act (CWA) sets out penalties applicable to persons who violate the Act's requirements. For example, section 309(d) provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $25,000 per day for each violation. Such violations also may be subject to administrative penalties assessed by the

Administrator pursuant to section 309(g) of the CWA. Any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, or 405 of the Clean Water Act is subject to a fine not less than $2,500 nor more than $25,000 per day of violation or by imprisonment for not more than 1 year, or both. Any person who knowingly violates a permit condition implementing sections 301, 302, 304, 307, 308, or 405 shall be punished by a fine not less than $5000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years or both.

(4) *Need to halt or reduce activity not a defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(5) *Duty to mitigate.* The permittee shall take all reasonable steps to minimize or prevent sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(6) *Proper operation and maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

(7) *Permit actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(8) *Duty to provide information.* The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

(9) *Inspection and entry.* The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(i) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(iv) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances, parameters or practices at any location.

(10) *Monitoring and records.* (i) The permittee must monitor and report monitoring results as specified elsewhere in this permit with a frequency dependent on the nature and effect of its sludge use or disposal practices. At a minimum, this will be as required by 40 CFR part 503.

(ii) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application, or longer as required by 40 CFR part 503. This period may be extended by request of the Director at any time.

(iii) Records of monitoring information shall include:

(A) The date, exact place, and time of sampling or measurements;

(B) The individual(s) who perfored the sampling or measurements;

(C) The date(s) analyses were performed;

(D) The individual(s) who performed the analyses;

(E) The analytical techniques or methods used; and

(F) The results of such analyses.

(iv) Monitoring must be conducted according to test procedures specified in 40 CFR part 503 or 136 unless other test procedures have been specified in this permit.

(v) The Clean Water Act provides that any person who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished for the first conviction by a fine of not more than $10,000 or by imprisonment for not more than 2 years per violation, or by both. Subsequent convictions for the same offense are punishable by a fine of not more than $20,000 per day of violation, or imprisonment of not more than 4 years, or both.

(11) *Signatory requirements.* (i) All applications, reports, or information submitted to the Director shall be signed and certified according to the provisions of 40 CFR 122.22.

(ii) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit shall, upon conviction, be punished for the first conviction by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both. Subsequent convictions shall be punishable by a fine of not more than $20,000 per day of violation or by imprisonment of not more than 4 years, or by both.

(12) *Notice requirements.* (i) *Planned changes.* The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility, or significant changes planned in the permittee's sludge disposal practice, where such alterations, additions, or changes may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

(ii) *Anticipated noncompliance.* The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(iii) *Transfers.* This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the CWA.

(iv) *Other noncompliance reporting.* The permittee shall report all instances of noncompliance. Reports of noncompliance shall be submitted with the permittee's next self monitoring report or earlier. if requested by the Director or if required by an applicable standard for sewage sludge use or disposal or condition of this permit.

(v) *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

(13) *Reopener.* If a standard for sewage sludge use or disposal applicable to permittee's use or disposal methods is promulgated under section 405(d) of the CWA before the expiration of this permit, and that standard is more stringent than the sludge pollutant limits or acceptable management practices authorized in this permit, or controls a pollutant or practice not limited in this permit, this permit may be promptly modified or revoked and reissued to conform to the standard for sludge use or disposal promulgated under section 405(d) of the CWA.

(14) *Duty to reapply.* If the permittee wishes to continue an activity regulated by the this permit after the expiration date of this permit, the permittee must apply for a new permit.

(15) Indian Tribes can satisfy the criminal enforcement authority requirements of this section under § 501.25.

(c) *Permit actions.* All State programs under this part shall have the legal authority to implement the following provisions as a minimum and must be administered in conformance with each.

(1) *Transfer of permits*—(i) *Transfers by modification.* Except as provided in paragraph (ii) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued to identify the new permittee and incorporate such other requirements as may be necessary to assure compliance with the CWA.

(ii) *Automatic transfers.* As an alternative to transfers under paragraph (c)(1)(i) of this section, the State Director may authorize automatic transfer of any sludge permit to a new permittee if:

(A) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (c)(1)(ii)(B) of this section;

(B) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

(C) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (c)(ii)(B) of this section.

(2) *Modification or revocation and reissuance of permits.* (i) When the Director receives any information (for example, where the Director inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance under § 501.15(d)(2)(i), or conducts a review of the permit file), he or she may determine whether or not one or more of the causes listed in paragraphs (c)(2)(ii) and (iii) of this section for modification or revocation and reissuance or both exist. If cause exists, the Director may modify or revoke and reissue the permit and may request an updated application if necessary. When a permit is modified, only the conditions subject to a modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. A draft permit must be prepared and other procedures in § 501.15(d) followed. If cause does not exist under this section, the Director shall not modify or revoke and reissue the permit.

(ii) *Causes for modification.* The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees.

(A) *Alterations.* There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different from or absent in the existing permit.

(B) *Information.* The Director has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(C) *New regulations.* New regulations have been promulgated under section 405(d) of the CWA, or the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued.

(D) *Compliance schedules.* The Director determines good cause exists for modification of a compliance schedule, such as an Act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonable available remedy. However, in no case may a compliance schedule be modified to extend beyond an applicable CWA statutory deadline.

(E) *Land application plans.* When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise

an existing land application plan, or to add a land application plan.

(iii) The following are causes to modify or alternatively, revoke and reissue, a permit.

(A) Cause exists for termination under § 501.15(c)(3) and the Director determines that modification or revocation and reissuance is appropriate.

(B) The Director has received notification (as required in the permit, see § 501.15(b)(12)(iii)) of a proposed transfer of the permit.

(3) *Termination of permits.* The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(i) Noncompliance by the permittee with any condition of the permit;

(ii) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(iii) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(iv) A change in any condition that requires either a temporary or a permanent reduction or elimination of any activity controlled by the permit.

(d) *Permit procedures.* All State programs approved under this part must have the legal authority to implement, and be administered in accordance with, each of following provisions, unless the Regional Administrator determines that the State program includes comparable or more stringent provisions.

(1) Application for a permit. (i) Any TWTDS whose sewage sludge use or disposal method is covered by part 503 and covered under the State program, and who does not have an effective sewage sludge permit, must complete, sign, and submit to the Director an application for a permit within the following time frames.

(A) TWTDS with a currently effective NPDES permit must submit the required application information when the next application for NPDES permit renewal is due.

(B) The required application information is listed in 40 CFR 122.21(q).

(C) Other existing TWTDS not addressed under paragraph (d)(1)(i)(A) of this section must submit the information listed in paragraphs (d)(1)(i)(C)(*1*) through (d)(I)(i)(C)(*5*) of this section, to the Director within one year after publication of a standard applicable to their sewage sludge use or disposal practices. The Director will determine when such a TWTDS must submit a full permit application.

(*1*) Name, mailing address and location of the TWTDS;

(*2*) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity;

(*3*) A description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the ceiling concentrations in 40 CFR 503.13(b)(1), the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8), the description must include the name and address of any facility where sewage sludge is sent for treatment or disposal, and the location of any land application sites;

(*4*) Annual amount of sewage sludge generated, treated, used or disposed (dry weight basis); and

(*5*) The most recent data the TWTDS may have on the quality of the sewage sludge.

(D) Notwithstanding paragraph (d)(1)(i)(A) or (d)(1)(i)(B) of this section, the Director may require permit applications from any TWTDS at any time if the Director determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

(E) Any TWTDS that commences operations after promulgation of an applicable standard for sewage sludge use or disposal must submit an application to the Director at least 180 days prior to the date proposed for commencing operations.

(ii) All TWTDS with a currently effective sewage sludge permit must submit a new application at least 180 days before the expiration date of their existing permit.

(iii) The Director will not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit.

(2) *Modification, revocation and reissuance, or termination of permits.* (i) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Director's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in § 501.15(c). All requests shall be in writing and shall contain factors or reasons supporting the request.

(ii) If the Director tentatively decides to modify or revoke and reissue a permit he or she shall prepare a draft permit incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of a revoked and reissued permit, the Director shall require the submission of a new application. If the Director tentatively decides to terminate a permit he or she shall prepare a Notice of Intent to Terminate and follow the public notice and comment procedures outlined in Section 501.15(d)(6).

(3) *Draft permits.* Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application. If the Director decides to prepare a draft permit, he or she shall prepare a draft permit that contains the necessary conditions to implement this part, 40 CFR part 503, and section 405 of the CWA.

(4) Fact sheets. A fact sheet must be prepared for every draft permit which the Director finds is the subject of widespread public interest or raises major issues. The fact sheet will briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Director will send this fact sheet to the applicant and, on request, to any other person.

(5) Public notice of permit actions and public comment period. (i) The Director must give public notice that the following actions have occurred:

(A) A draft permit has been prepared. At least 30 days must be allowed for public comment on the draft permit unless the Director has previously provided for public comment, for example after receipt of the permit application.

(B) A meeting or hearing has been scheduled.

(ii) Methods. Public notice of activities described in paragraph (d)(5)(i) of this section must be given in the area affected by these activities by any method reasonably calculated to give actual notice of the action in question to any person affected or requesting notice of the action. Public notice may include publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity, press releases, or any other forum or medium to elicit public participation.

(*iii*) Contents.

(A) *All public notices.* All public notices issued under this part must contain the following minimum information:

(*1*) Name and address of the office processing the permit action for which notice is being given;

(*2*) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(*3*) A brief description of the activity described in the permit application (including the inclusion of land application plan, if appropriate);

(4) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet, and the application;

(*5*) A brief description of the comment procedures required by § 501.15(d)(6) and the time and place of any meeting or hearing that will be held, including a Statement of procedures to request a meeting or hearing (unless a meeting or hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision; and

(*6*) Any additional information considered necessary or proper.

(B) *Public notices for meetings or hearings.* In addition to the general public

notice described in paragraph (d)(5)(iii)(A) of this section, the public notice of a meeting or hearing must contain the following information:

(*1*) Date, time and place of the meeting or hearing; and

(*2*) A brief description of the nature and purpose of the meeting or hearing, including the applicable rules and procedures.

(6) *Public comments and requests for public meetings or hearings.* During the public comment period, any interested person may submit written comments on the draft permit and may request a public meeting or hearing, if no meeting or hearing has already been scheduled. A request for a public meeting or hearing must be in writing and must state the nature of the issues proposed to be raised in the meeting or hearing. All comments will be considered in making the final decision and must be answered as provided in paragraph (d)(8) of this section.

(7) *Public meetings or hearings.* The Director will hold a public meeting or hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit. The Director may also hold a public meeting or hearing at his or her discretion, (e.g. where such a hearing might clarify one or more issues involved in the permit decision).

(8) *Response to comments.* At the time a final permit is issued, the Director will issue a response to comments. The response to comments must be available to the public, and must:

(i) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(ii) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period or during any meeting or hearing.

(e) *Optional program provisions.* The following provisions may be included in a State program at the State's option. If the State decides to adopt any of these provisions, they must be no less stringent than the corresponding Federal provisions:

(1) Continuation of expiring permits (40 CFR 122.6);

(2) General permits (40 CFR 122.28);

(3) Minor modifications of permits (40 CFR 122.63); and

(4) Effect of permit: affirmative defense (40 CFR 122.5(b)).

(f) *Conflict of interest.* Except as provided in paragraph (f)(2), State sludge management programs shall ensure that any board or body which approves all or portions of permits shall not include as a member any person who receives, or has during the previous two years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit.

(1) For the purposes of this paragraph:

(i) ''Board or body'' includes any individual, including the Director, who has or shares authority to approve all or portions of permits either in the first instance, as modified or reissued, or on appeal.

(ii) ''Significant portion of income'' means 10 percent or more of gross personal income for a calendar year, except that it means 50 percent or more of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving that portion under retirement, pension, or similar arrangement.

(iii) ''Permit holders or applicants for a permit'' does not include any department or agency of a State government, such as a Department of Parks or a Department of Fish and Wildlife.

(iv) ''Income'' includes retirement benefits, consultant fees, and stock dividends.

(v) Income is not received ''directly or indirectly from permit holders or applicants for a permit'' when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the identity of the primary sources of income.

(2) The Administrator may waive the requirements of this paragraph if the board or body which approves all or portions of permits is subject to, and certifies that it meets, a conflict-of-interest standard imposed as part of another EPA-approved State permitting program or an equivalent standard.

[54 FR 18786, May 2, 1989, as amended at 58 FR 9414, Feb. 19, 1993; 58 FR 67984, Dec. 22, 1993; 63 FR 45125, Aug. 24, 1998; 64 FR 42470, Aug. 4, 1999]

§ 501.16 Requirements for compliance evaluation programs.

State sludge management programs shall have requirements and procedures for compliance monitoring and evaluation as set forth in § 123.26.

§ 501.17 Requirements for enforcement authority.

(a) Any State agency administering a program shall have available the following remedies for violations of State program requirements:

(1) To restrain immediately and effectively any person by order or by suit in State court from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment;

NOTE: This paragraph ((a)(1)) requires that States have a mechanism (e.g., an administrative cease and desist order or the ability to seek a temporary restraining order) to stop any unauthorized activity endangering public health or the environment.

(2) To sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit; and

(3) To assess or sue to recover in court civil penalties and to seek criminal remedies, including fines, as follows:

(i) Civil penalties will be recoverable for the violation of any permit condition; any applicable standard or limitation; any filing requirement; any duty to allow or carry out inspection, entry or monitoring activities; or any regulation or orders issued by the State Program Director. The State must at a minimum, have the authority to assess penalties of up to $5,000 a day for each violation.

(ii) Criminal fines will be recoverable against any person who willfully or negligently violates any applicable standards or limitations; any permit condition; or any filing requirement. The State must at a minimum, have the authority to assess fines of up to $10,000 a day for each violation. States which provide the criminal remedies based on ''criminal negligence,'' ''gross negligence'' or strict liability satisfy the requirement of this paragraph (a)(3)(ii) of this section.

(iii) Criminal fines will be recoverable against any person who knowingly makes any false statement, representation or certification in any program form, or in any notice or report required by a permit or State Program Director, or who knowingly renders inaccurate any monitoring device or method required to be maintained by the State Program Director. The State must at a minimum, have the authority to assess fines of up to $5,000 for each instance of violation.

(b)(1) The civil penalty or criminal fine will be assessable for each instance of violation and, if the violation is continuous, will be assessable up to the maximum amount for each day of violation.

(2) The burden of proof and degree of knowledge or intent required under State law for establishing violations under paragraph (a)(3) of this section shall be no greater than the burden of proof or degree of knowledge or intent EPA must provide when it brings an action under the appropriate Act.

NOTE: For example, this requirement is not met if State law includes mental state as an element of proof for civil violations.

(c) A civil penalty assessed, sought, or agreed upon by the State Program Director under paragraph (a)(3) of this section shall be appropriate to the violation.

(d) Any State administering a program shall provide for public participation in the State enforcement process by providing either:

(1) Authority which allows intervention as of right in any civil or administrative action to obtain remedies specified in paragraphs (a)(1), (2) or (3) of this section by any citizen having an interest which is or may be adversely affected; or

(2) Assurance that the State agency or enforcement authority will:

(i) Investigate and provide responses to all citizen complaints submitted pursuant to the procedures specified in 40 CFR 123.26(b)(4);

(ii) Not oppose intervention by any citizen in any civil or administrative proceeding when permissive intervention may be authorized by statute, rule, or regulation; and

(iii) Publish notice of and provide at least 30 days for public comment on

any proposed settlement of a State enforcement action.

(e) Indian Tribes that cannot satisfy the criminal enforcement authority requirements of this section may still be approved under this part if they meet the requirements established in § 501.25.

[54 FR 18786, May 2, 1989, as amended at 58 FR 67984, Dec. 22, 1993; 63 FR 45127, Aug. 24, 1998]

§ 501.18 Prohibition.

State permit programs shall provide that no permit shall be issued when the Regional Administrator has objected in writing under 40 CFR 123.44.

§ 501.19 Sharing of information.

State sludge management programs shall comply with the requirements of 40 CFR 123.41.

§ 501.20 Receipt and use of federal information.

State sludge management programs shall comply with 40 CFR 123.42.

§ 501.21 Program reporting to EPA.

The State Program Director must prepare annual reports as detailed in this section and must submit any reports required under this section to the Regional Administrator. These reports will serve as the main vehicle for the State to report on the status of its sludge management program, update its inventory of sewage sludge generators and sludge disposal facilities, and provide information on incidents of noncompliance. The State Program Director must submit these reports to the Regional Administrator according to a mutually agreed-upon schedule. The reports specified below may be combined with other reports to EPA (e.g., existing NPDES or RCRA reporting systems) where appropriate and must include the following:

(a) A summary of the incidents of noncompliance which occurred in the previous year that includes:

(1) The non-complying facilities by name and reference number;

(2) The type of noncompliance, a brief description and date(s) of the event;

(3) The date(s) and a brief description of the action(s) taken to ensure timely and appropriate action to achieve compliance;

(4) Status of the incident(s) of noncompliance with the date of resolution; and

(5) Any details which tend to explain or mitigate the incident(s) of noncompliance.

(b) Information to update the inventory of all sewage sludge generators and sewage sludge disposal facilities submitted with the program plan or in previous annual reports, including:

(1) Name and location;

(2) Permit numbers for permits containing sewage sludge requirements;

(3) Sludge management practice(s) used; and

(4) Sludge production volume.

[63 FR 45127, Aug. 24, 1998]

§ 501.22 Requirements for eligibility of Indian Tribes.

(a) Consistent with section 518(e) of the CWA, 33 U.S.C. 1377(e), the Regional Administrator will treat an Indian Tribe as eligible to apply for sludge management program authority if it meets the following criteria:

(1) The Indian Tribe is recognized by the Secretary of the Interior.

(2) The Indian Tribe has a governing body carrying out substantial governmental duties and powers.

(3) The functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust for the Indians, held by a member of an Indian Tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation.

(4) The Indian Tribe is reasonably expected to be capable, in the Regional Administrator's judgment, of carrying out the functions to be exercised, in a manner consistent with the terms and purposes of the Act and applicable regulations, of an effective sludge management program.

(b) An Indian Tribe which the Regional Administrator determines meets the criteria described in paragraph (a) of this section must also satisfy the State program requirements described

in this part for assumption of the State program.

[58 FR 67984, Dec. 22, 1993, as amended at 59 FR 64346, Dec. 14, 1994]

§ 501.23 Request by an Indian Tribe for a determination of eligibility.

An Indian Tribe may apply to the Regional Administrator for a determination that it qualifies pursuant to section 518 of the Act for purposes of seeking sludge management program approval. The application shall be concise and describe how the Indian Tribe will meet each of the requirements of § 501.22. The application shall include the following information:

(a) A statement that the Tribe is recognized by the Secretary of the Interior;

(b) A descriptive statement demonstrating that the Tribal governing body is currently carrying out substantial governmental duties and powers over a defined area. This statement should:

(1) Describe the form of the Tribal government;

(2) Describe the types of governmental functions currently performed by the Tribal governing body, such as, but not limited to, the exercise of police powers affecting (or relating to) the health, safety, and welfare of the affected population; taxation; and the exercise of the power of eminent domain; and

(3) Identify the source of the Tribal government's authority to carry out the governmental functions currently being performed.

(c) A map or legal description of the area over which the Indian Tribe asserts authority under section 518(e)(2) of the Act; a statement by the Tribal Attorney General (or equivalent official authorized to represent the Tribe in all legal matters in court pertaining to the program for which it seeks approval) which describes the basis for the Tribe's assertion (including the nature or subject matter of the asserted regulatory authority); copies of those documents such as Tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions which the Tribe believes are relevant to its assertion under section 518(e)(2) of the Act.

(d) A narrative statement describing the capability of the Indian Tribe to administer an effective, environmentally sound sludge management program. The statement should include:

(1) A description of the Indian Tribe's previous management experience which may include the administration of programs and service authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), the Indian Mineral Development Act (25 U.S.C. 2101 *et seq.*), or the Indian Sanitation Facility Construction Activity Act (42 U.S.C. 2004a);

(2) A list of existing environmental or public health programs administered by the Tribal governing body, and a copy of related Tribal laws, regulations, and policies;

(3) A description of the entity (or entities) which exercise the executive, legislative, and judicial functions of the Tribal government;

(4) A description of the existing, or proposed, agency of the Indian Tribe which will assume primary responsibility for establishing and administering a sludge management program (including a description of the relationship between the existing or proposed agency and its regulated entities);

(5) A description of the technical and administrative abilities of the staff to administer and manage an effective, environmentally sound sludge management program or a plan which proposes how the Tribe will acquire additional administrative and technical expertise. The plan must address how the Tribe will obtain the funds to acquire the administrative and technical expertise.

(e) The Regional Administrator may, at his discretion, request further documentation necessary to support a Tribe's eligibility.

(f) If the Administrator or her delegatee has previously determined that a Tribe has met the prerequisites that make it eligible to assume a role similar to that of a state as provided by statute under the Safe Drinking Water Act, the Clean Water Act, or the Clean Air Act, then that Tribe need provide only that information unique to the sludge management program

which is requested by the Regional Administrator.

[58 FR 67984, Dec. 22, 1993, as amended at 59 FR 64346, Dec. 14, 1994]

§ 501.24 Procedures for processing an Indian Tribe's application.

(a) The Regional Administrator shall process an application of an Indian Tribe submitted pursuant to § 501.23 in a timely manner. He shall promptly notify the Indian Tribe of receipt of the application.

(b) The Regional Administrator shall follow the procedures described in subpart C of this part in processing a Tribe's request to assume the sludge management program.

[58 FR 67985, Dec. 22, 1993, as amended at 59 FR 64346, Dec. 14, 1994]

§ 501.25 Provisions for Tribal criminal enforcement authority.

To the extent that an Indian Tribe is precluded from asserting criminal enforcement authority as required under §§ 501.1(c)(5) and 501.17, the Federal Government will exercise primary criminal enforcement responsibility. The Tribe, with the EPA Region, shall develop a procedure by which the Tribal agency will refer potential criminal violations to the Regional Administrator, as agreed to by the parties, in an appropriate and timely manner. This procedure shall encompass all circumstances in which the Tribe is incapable of exercising the enforcement requirements of §§ 501.1(c)(5) and 501.17. This agreement shall be incorporated into a joint or separate Memorandum of Agreement with the EPA Region, as appropriate.

[58 FR 67985, Dec. 22, 1993]

Subpart C—Program Approval, Revision and Withdrawal

§ 501.31 Review and approval procedures.

(a) EPA shall approve or disapprove a State's application for approval of its State sludge management program within 90 days after receiving a complete program submission.

(b) Within 30 days of receipt by EPA of a State program submission, EPA will notify the State whether its submission is complete. If EPA finds that a State's submission is complete, the 90-day review period will be deemed to have begun on the date of the completeness determination. If EPA finds that a State's submission is incomplete, the review period will not begin until all the necessary information is received by EPA.

(c) After determining that a State program submission is complete, EPA will publish notice of the State's application in the FEDERAL REGISTER and in enough of the largest newspapers in the State to attract statewide attention. EPA will mail notices to persons known to be interested in such matters, including all persons on appropriate State and EPA mailing lists and all treatment works treating domestic sewage listed on the inventory required by § 501.12(f) of this part. The notice will:

(1) Provide a comment period of not less than 45 days during which interested members of the public may express their views on the State program;

(2) Provide opportunity for a public hearing within the State to be held no less than 30 days after notice is published in the FEDERAL REGISTER and indicate when and where the hearing is to be held, or how interested persons may request that a hearing be held if a hearing has not been scheduled. EPA shall hold a public hearing whenever the Regional Administrator finds, on the basis of requests, a significant degree of public interest in the State's application or that a public hearing might clarify one or more issues involved in the State's application.

(3) Indicate the cost of obtaining a copy of the State's submission;

(4) Indicate where and when the State's submission may be reviewed by the public;

(5) Indicate whom an interested member of the public should contact with any questions; and

(6) Briefly outline the fundamental aspects of the State's proposed program, and the process for EPA review and decision.

(d) Within 90 days after determining that the State has submitted a complete program, the Administrator shall approve or disapprove the program based on the requirements of this part

and of the CWA and after taking into consideration all comments received. A responsiveness summary shall be prepared by the Regional Office which identifies the public participation activities conducted, describes the matters presented to the public, summarizes significant comments received and explains EPA's response to these comments.

(e) The State and EPA may extend the 90-day review period by mutual agreement.

(f) If the State's submission is materially changed during the 90-day review, either as a result of EPA's review or the State action, the official review period shall begin again upon receipt of the revised submission.

(g) Notice of program approval shall be published by EPA in the FEDERAL REGISTER.

(h) If the Administrator disapproves the State program he or she shall notify the State of the reasons for disapproval and of any revisions or modifications to the State program which are necessary to obtain approval.

§ 501.32 Procedures for revision of State programs.

(a) Any State with an approved State program which requires revision to comply with amendments to federal regulations governing sewage sludge use or disposal (including revisions to this part) must revise its program within one year after promulgation of applicable regulations, unless either the State must amend or enact a statute in order to make the required revision, in which case such revision must take place within 2 years; or a different schedule is established under the Memorandum of Agreement.

(b) State sludge management programs shall follow the procedures for program revision set forth in 40 CFR 123.62.

[54 FR 18786, May 2, 1989, as amended at 63 FR 45127, Aug. 24, 1998]

§ 501.33 Criteria for withdrawal of State programs.

The criteria for withdrawal of sludge management programs shall be those set forth in 40 CFR 123.63.

§ 501.34 Procedures for withdrawal of State programs.

The procedures for withdrawal of sludge management programs shall be those set forth in 40 CFR 123.64.

PART 503—STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE

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